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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
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Draft report

Addendum

V. Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

1. Pursuant to General Assembly resolution 68/75, the Subcommittee considered, as a regular item on its agenda, agenda item 7, entitled as follows:

"Matters relating to:

"(a) The definition and delimitation of outer space;

"(b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union."

2. The representatives of Belgium, Brazil, Indonesia, Mexico, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 7. A statement was also made by the representative of Chile on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the item were also made by representatives of other member States and Nicaragua on behalf of the Group of Latin American and Caribbean States.

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3. At its 878th meeting, on 24 March, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.

4. The Working Group held [...] meetings. The Subcommittee, at its [...] meeting, on [...] April, endorsed the report of the Chair of the Working Group, contained in annex II to the present report.

5. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat on national legislation and practice relating to the definition and delimitation of outer space (A/AC.105/865/Add.14 and 15);

(b) Note by the Secretariat on questions on the definition and delimitation of outer space: replies from Member States (A/AC.105/889/Add.13 and 14);

(c) Note by the Secretariat on questions on suborbital flights for scientific missions and/or for human transportation (A/AC.105/1039/Add.2 and 3);

(d) Conference room paper entitled "Matters relating to the definition and delimitation of outer space: replies of the Russian Federation" (A/AC.105/C.2/2014/CRP.6);

(e) Conference room paper entitled "Matters relating to the definition and delimitation of outer space: replies of Uruguay" (A/AC.105/C.2/2014/CRP.13);

(f) Conference room paper on the contribution of Turkey to the fifty-third session of the Legal Subcommittee" (A/AC.105/C.2/2014/CRP.26);

(g) Conference room paper entitled "Summary of information on national practices and legislation of States with regard to the definition and delimitation of outer space" (A/AC.105/C.2/2014/CRP.27).

6. The Subcommittee heard a presentation entitled "The definition and delimitation of outer space: the present need to determine where 'space activities' begin", by the observer for IAASS.

7. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, the participation of the private sector, emerging legal questions and the increasing use of outer space in general had made it necessary for the Subcommittee to consider the question of the definition and delimitation of outer space.

8. Some delegations expressed the view that the lack of a definition or delimitation of outer space created legal uncertainty concerning the applicability of air law and space law and that matters concerning State sovereignty and the boundary between airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.

9. The view was expressed that there was no need to seek a legal definition or delimitation of outer space and that States should continue to operate under the current framework, which presented no practical difficulties, until such time as there

was a demonstrated need and a practical basis for developing a definition or delimitation of outer space.

10. The view was expressed that an agreement on a clear definition of the boundaries between outer space and airspace would allow the Committee and the Subcommittee to concentrate on developing and improving legal instruments that apply to activities that were not restricted to one single realm of space and would create the legal certainty that was needed to provide commercial operators with the necessary assurances to carry out their activities. The delegation that expressed that view was also of the view that if the Subcommittee failed to act, it might lose its leading role on the issue, and that would be tantamount to neglecting its mandate.

11. Some delegations expressed the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — must be used rationally and should be made available to all States, irrespective of their current technical capacities. That would provide States with the possibility of having access to the geostationary orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical position of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.

12. Some delegations expressed the view that the geostationary orbit was part of outer space, that it was not subject to national appropriation by claim of sovereignty, by means of use or occupation or by any other means, including by means of use or repeated use, and that its utilization was governed by the Outer Space Treaty and ITU treaties.

13. The view was expressed that the geostationary orbit, as a limited natural resource clearly in danger of saturation, must be used rationally, efficiently, economically and equitably. That principle was deemed fundamental to safeguarding the interests of developing countries and countries with a certain geographical position, as set out in article 44, paragraph 196.2, of the Constitution of ITU, as amended by the plenipotentiary conference held in Minneapolis, United States, in 1998.

14. The view was expressed that the utilization by States of the geostationary orbit on the basis of "first come, first served" was unacceptable and that the Subcommittee should therefore develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of peaceful use and non-appropriation of outer space.

15. The Subcommittee noted the information provided by the United States on the actions of that Government to further the use of the geostationary orbit and other uniquely situated orbits, such as the free provision of the signal from the Global Positioning System, information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration of the United States and data from the geostationary operational environmental satellites (GOES). The Subcommittee also noted the cooperation of the Governments of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).

16. The view was expressed that special attention should be given to equitable access for all States to orbit-spectrum resources in geostationary orbit while

recognizing its potential with respect to social programmes that benefited the most underserved communities, making educational and medical projects possible, guaranteeing access to information and communication technology and improving links to necessary sources of information in order to strengthen social organization, as well as promoting knowledge and the exchange thereof without commercial interests acting as intermediaries.

17. The view was expressed that the Subcommittee should consider developing a legal regime dedicated to the geostationary orbit, in accordance with the Outer Space Treaty, and that such regime should take into account the needs of developing countries as well as the geographical characteristics of certain countries.

18. Some delegations expressed the view that, in order to ensure the sustainability of the geostationary orbit, it was necessary to keep that issue on the agenda of the Subcommittee and to explore it further, through the creation of appropriate working groups and legal and technical intergovernmental panels, as necessary. Those delegations were of the view that working groups or intergovernmental panels with technical and legal expertise should be established to promote equal access to the geostationary orbit, and called for a greater participation of ITU in the work of the Subcommittee under those matters.

VI. National legislation relevant to the peaceful exploration and use of outer space

19. Pursuant to General Assembly resolution 68/75, the Subcommittee considered agenda item 8, entitled "National legislation relevant to the peaceful exploration and use of outer space", as a regular item on its agenda.

20. The representatives of France, Japan, Mexico, Poland, South Africa, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 8. During the general exchange of views, statements relating to the item were made by representatives of other member States.

21. The Subcommittee had before it the following:

(a) Conference room paper related to the schematic overview of national regulatory frameworks for space activities (A/AC.105/C.2/2014/CRP.5);

(b) Conference room paper entitled "Development of a system for legal regulation of space activities of the Russian Federation" (A/AC.105/C.2/2014/CRP.14).

22. The Subcommittee heard the following presentations:

(a) "China's space regulations: registration and licencing", by the representative of China;

(b) "The Indonesian Space Act No. 21, 2013", by the representative of Indonesia.

23. The Subcommittee welcomed the adoption by the General Assembly of its resolution 68/74 on recommendations on national legislation relevant to the peaceful exploration and use of outer space. In that regard, the Subcommittee noted with satisfaction that the resolution was a result of successful cooperation and broad

consensus among member States and that it provided for an excellent source of information and guidance for those States wishing to strengthen or develop their national space legislations.

24. The view was expressed that Assembly resolution 68/74 represented only the very condensed essence of what had been discussed throughout the years in the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space and that those discussions were equally important as they had enabled States to gain an understanding of existing national regulatory frameworks, share experiences on national practices and exchange information on national legal frameworks.

25. The Subcommittee noted various activities of member States in strengthening or developing their national space laws and policies, as well as in reforming or establishing governance of national space activities. In that connection, the Subcommittee also noted that those activities were aimed at improving management, increasing competitiveness, involving academia, better responding to challenges posed by the development of space activities and better implementing international obligations.

26. The Subcommittee noted the development of the African Space Policy, within the institutional framework of the African Union, which would guide the African presence in space-related endeavours, and that that exercise would assist African States to develop national space legislation in harmony with international space law principles, taking into account Assembly resolution 68/74.

27. The Subcommittee noted with satisfaction the increasing number of space-related international cooperation programmes and projects. In that connection, the Subcommittee noted the importance of the development of space legislation by States, as national regulatory frameworks played a significant role in regulating and promoting such cooperation activities.

28. The Subcommittee reiterated that it was important to take into account the increased level of commercial and private activities in outer space in the context of developing a national space-related regulatory framework, particularly with respect to the responsibilities of States regarding their national space activities.

29. The view was expressed that the authorization and monitoring of national space activities and the registration of space objects were essential, as they enabled States to have effective control of their national space activities and better respond to international responsibilities. The delegation that expressed that view was also of the view that that was particularly important for ensuring, in the long term, the protection of space environment and access to it by all States.

30. The Subcommittee agreed that it was important to continue to regularly exchange information on developments in the area of national space-related regulatory frameworks. In that regard, the Subcommittee encouraged Member States to continue to submit to the Secretariat texts of their national space laws and regulations and to provide updates and inputs for the schematic overview of national regulatory frameworks for space activities.

31. The Subcommittee requested the Secretariat to develop, in consultation with ITU, an information handout on issues relevant to registration, authorization, debris mitigation and frequency management with respect to small and very small

satellites, for the benefit of space actors intending to operate small and very small satellites.

32. The Subcommittee commended the Secretariat for its continuous work on the update of the schematic overview of national regulatory frameworks for space activities, as well as the update of its web-based database of national space legislation.